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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,170	12/05/2003	Tommie L. McCaster III	CMC-15019	8576
7609	7590	12/13/2004	EXAMINER	
RANKIN, HILL, PORTER & CLARK, LLP 925 EUCLID AVENUE, SUITE 700 CLEVELAND, OH 44115-1405			STORMER, RUSSELL D	
		ART UNIT	PAPER NUMBER	
		3617		

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/729,170	MCCASTER ET AL.
	Examiner	Art Unit
	Russell D. Stormer	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 October 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,7-9 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 17 and 18 is/are allowed.
- 6) Claim(s) 1-5,7-9,13-16 and 19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/5/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 4, 5, 7, 14, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Adkins.

Brown discloses a wheel cover attached to the connecting portion of the wheel hub to cover the lug nuts. A clock is not shown to mounted to the front side of the cover.

Adkins (UK Application 2265585) teaches the desirability of having a functioning clock mounted to the front side of a wheel cover. The clock includes the hour and minute and second hands, and may be electronic, battery powered, or mechanical.

From this teaching it would have been obvious to provide the wheel cover of Brown with a functional clock in order to decorate the wheel cover.

With respect to claim 2, the orientation of the clock, at the center of the wheel cover, would not appear to change as the wheel is rotated.

With respect to claim 5, for the hour and minute hand of the clock to be electroluminescent would have been obvious as such clocks are well-known and those of ordinary skill could readily chose one clock over another as desired.

With respect to claim 7, it would have been obvious for the hub and rim to be integral as such is well-known in the art.

With respect to claim 19, to space the spokes of the wheel to create an effect is well-known as admitted by Applicants on page 4 of the specification.

4. Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Adkins as applied to claim 2 above, and further in view of Schindler.

For the cover of Brown as modified by Adkins to include a bezel and a transparent portion would have been obvious as taught by Schindler in order to protect the clock.

5. Claims 8, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Adkins as applied to claim 2 above, and further in view of Hinrichs.

For the wheel cover assembly of Brown as modified by Adkins to include a light source and a controller for switching the light source on and off would have been obvious as taught by Hinrichs in order to allow the clock to be viewed at night.

Allowable Subject Matter

6. Claims 17 and 18 are allowable over the prior art of record.

Response to Arguments

7. Applicant's arguments filed October 25, 2004 have been fully considered but they are not persuasive.

Applicant argues that the Brown reference merely teaches a wheel cover retained in the opening of a wheel. This is true, but the wheel cover of Brown also is mounted to a wheel to conceal the lug nuts tightened down on the lug studs.

Applicant argues that Adkins teaches a clock kit mounted to a wheel cover *from* a motor vehicle and that the cover of Adkins, which has a functioning clock mounted to the outer face thereof, is intended to be hung on a wall, or set on a desk in a resting stand, and that Adkins does not suggest that the clock kit could be mounted to a wheel cover to be secured to a vehicle wheel.

This is not persuasive because the clock of Adkins is mounted in an actual (not simulated) wheel cover. The cover can be mounted to a wheel of a vehicle, and there is no suggestion in Adkins that the cover cannot be mounted to a vehicle wheel while the wheel is on a vehicle. Further, since the cover shown in Adkins is taken from a vehicle,

there is no reason it cannot be put back on the vehicle once the clock is fitted to the cover.

Applicant further argues that there is no teaching in the references to suggest the combination of Adkins and Brown and that the combination is improper.

This is not found to be persuasive because Brown itself suggests that a clock can be mounted in a wheel cover from a motor vehicle, and those of ordinary skill would know that if the wheel cover came from a vehicle, it *could* be returned to the vehicle. There is nothing in Brown to suggest otherwise.

With respect to claim 2, Applicant has not defined the word "orientation" in any way to suggest the disposition of the face of the clock. Therefore, the orientation of the clock in the wheel cover of Brown as modified by Adkins can be defined in the rejection as being in the center of the cover and this would not substantially change when the wheel is rotated.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (703) 308-3768. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/8/04


RUSSELL D. STORMER
PRIMARY EXAMINER
12/8/04